REMARKS

Response to Claim Rejections Under 35 U.S.C. §103

Claims 1, 29, 31-32 and 40-51 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Kieturakis (U.S. Pat. No. 5,794,626) in view of Tihon et al. (U.S. Pat. No. 5,415,656) further in view of Ritchart et al. (U.S. Pat. No. 5,649,547). In response applicants have amended rejected claims to clarify the location of the tissue cutting element and the encapsulation components, namely coupled to the distal shaft portion which is proximal to the distal end. The Examiner contends that element 150 of the Ritchart et al. reference is an encapsulating element. However, it is clear that the element is a grasping element, not an encapsulating element. The grasping arms of the Ritchart et al. would not encapsulate the specimen. Moreover, the distal end as called for in the present claims.

Claims 1, 29, 31-33, and 40-51 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Kieturakis ('626) in view of Tihon et al. ('656) further in view of Ritchart et al. ('547) even further in view of Kanner et al. ('790). The deficiencies of Kieturakis, Tihon et al. and Ritchart et al. have been discussed above. Kanner et al. fails to make up for the deficiencies of Kieturakis, Tihon et al. and Ritchart et al. as previously discussed. The present claims call for securing the severed tissue to the distal shaft section. Kanner et al. suctions the specimen into the cutting member through a distal port. The entire structures of previously discussed Kieturakis, Tihon et al. and Ritchart et al. references would have to be modified to accommodate the features of Kanner et al., so those having ordinary skill in the art would not seek to

modify Kieturakis, Tihon et al. and Ritchart et al. by the teaching of Kanner et al. as contended by the Examiner.

Conclusion

Applicants believe that the pending claims are directed to patentable subject matter. Further consideration pursuant to the concurrently filed RCE and an early allowance of these claims are earnestly solicited.

Respectfully submitted,

Edward J. Lynch

Registration No. 24,422 Attorney for Applicants

EDWARD J. LYNCH
Patent Attorney
One Embarcadero Center
Suite 562
San Francisco, CA 94111
Telephone: (415) 646-8028

Facsimile: (415) 433-5994